

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

BRUCE KERNER, *et al.*

Plaintiffs,

v.

**ETI ENVIRONMENTAL
LABORATORY, *et al.***

Defendants.

Case No. 2:09-cv-1092

Judge Peter C. Economus

ORDER

This Court dismissed Plaintiff's claims on November 9, 2011. Counterclaims filed by Defendants Omni Group, Inc. and Dennis Markferding (the "Omni Defendants") remained pending. The Omni Defendants have filed a motion to dismiss their counterclaims without prejudice. (Dkt. 93.) They assert that such dismissal would not prejudice Plaintiffs because discovery is complete, Plaintiffs' claims have been dismissed, and dismissing the remaining counterclaims would result in a final appealable order. The Omni Defendants' counsel has represented to the Court that while Plaintiffs do not consent to the motion, they neither oppose it nor intend to file a response. The Court hereby **GRANTS** the Omni Defendants' motion (Dkt. 93), **DISMISSES** the Omni Defendants' counterclaims without prejudice, and **DIRECTS** the Clerk to enter judgment.

IT IS SO ORDERED.

/s/ Peter C. Economus - March 30, 2012
UNITED STATES DISTRICT JUDGE